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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

DAVEINDIRA D. B. DEONARINE,

Defendant and Appellant.

B177827

(Super. Ct. No. KA 038586)

APPEAL from a judgment of the Superior Court of Los Angeles County.

Wade D. Olson, Commissioner. Affirmed.

California Appellate Project, Jonathan B. Steiner and Richard L. Fitzner, under
appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On December 30, 1997, defendant Daveindira Deonarine pled guilty to the use of false documents, a violation of Penal Code section 114.¹ Imposition of sentence was suspended and the defendant was granted probation for a period of three years. On November 3, 1999, defendant's probation was revoked and a warrant was issued for his arrest. On June 8, 2004, defendant waived his right to a formal hearing and admitted he had violated probation. On July 8, defendant was sentenced to five years in the state prison. He appeals from the judgment, challenging only the sentence which was imposed. We affirm.

We appointed counsel to represent defendant on appeal. After an examination of the record, counsel filed an "Appellant's Opening Brief," in which no issues were raised. Counsel requested that this court independently review the record on appeal for any arguable issues. Counsel also informed this court he had advised defendant of the nature of the opening brief, his right to request new counsel, and his right to file a supplemental brief.² Defendant filed two separate briefs.

Defendant raises the same issues he presented at his sentencing hearing. He argues the court should have been more lenient. He notes section 114 carries a sentence of five years in the state prison or a \$25,000 fine, and questions why the court did not simply fine him. Suffice it to say, the court noted defendant had been convicted of a new offense since his grant of probation.

Defendant also asserts the trial court failed to state any aggravating circumstances before it imposed sentence. Section 114 does not have the usual tripartite sentencing term. The prison sentence is a fixed five years. Therefore, the court was not required to weigh circumstances in aggravation or mitigation before imposing the mandatory prison sentence.

¹ All statutory references are to the Penal Code.

² Defendant's request for new counsel was denied on December 23, 2004.

We have examined the entire record and are satisfied defendant's attorney has fully complied with his responsibilities and no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 441.)

DISPOSITION

The judgment is affirmed.

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SUZUKAWA, J.*

We concur:

SPENCER, P. J.

MALLANO, J.

* (Judge of the L. A. Sup. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.)